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BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2000-62700

KEVIN RAE WALLACE
145 Camellia Way, #22
Modesto, CA 95354

A C C U S A T I O N

Physical Therapy Assistant
License No. AT-5774,

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about March 28, 2000, the Physical Therapy Board issued Physical Therapy Assistant License Number AT 5774 to Kevin Rae Wallace ("Respondent"). The Physical Therapy Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board ("Board"),

1 under the authority of the following sections of the Business and Professions Code ("Code").

2 4. Section 2660 of the Code states:

3 The board may, after the conduct of appropriate proceedings under the
4 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
5 probationary conditions upon any license, certificate, or approval issued under this chapter for
6 unprofessional conduct that includes, but is not limited to, one or any combination of the following
7 causes:

8 (h) Gross negligence in his or her practice as a physical therapist.

9 (i) The commission of any fraudulent, dishonest, or corrupt act which is
10 substantially related to the qualifications, functions, or duties of a physical therapist.

11 5. Section 2630 of the Code states:

12 It is unlawful for any person or persons to practice, or offer to practice, physical
13 therapy in this state for compensation received or expected, or to hold himself or herself out
14 as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and
15 unrevoked license issued under this chapter.

16 Nothing in this section shall restrict the activities authorized by their licenses on the
17 part of any persons licensed under this code or any initiative act, or the activities authorized
18 to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7
19 (commencing with Section 3500).

20 A physical therapist licensed pursuant to this chapter may utilize the services of one
21 aide engaged in patient-related tasks to assist the physical therapist in his or her practice of
22 physical therapy. "Patient-related task" means a physical therapy service rendered directly
23 to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task"
24 means a task related to observation of the patient, transport of the patient, physical support
25 only during gait or transfer training, housekeeping duties, clerical duties, and similar
26 functions. The aide shall at all times be under the orders, direction, and immediate
27 supervision of the physical therapist. Nothing in this section shall authorize an aide to
28 independently perform physical therapy or any physical therapy procedure. The board shall

1 adopt regulations that set forth the standards and requirements for the orders, direction, and
2 immediate supervision of an aide by a physical therapist. The physical therapist shall provide
3 continuous and immediate supervision of the aide. The physical therapist shall be in the
4 same facility as, and in proximity to, the location where the aide is performing patient-related
5 tasks, and shall be readily available at all times to provide advice or instruction to the aide.
6 When patient-related tasks are provided to a patient by an aide, the supervising physical
7 therapist shall, at some point during the treatment day, provide direct service to the patient
8 as treatment for the patient's condition, or to further evaluate and monitor the patient's
9 progress, and shall correspondingly document the patient's record.

10 The administration of massage, external baths, or normal exercise not a part of a
11 physical therapy treatment shall not be prohibited by this section.

12 6. Section 2655 of the Code states:

13 As used in this article:

14 (b) "Physical therapist assistant" means a person who meets the qualifications
15 stated in Section 2655.3 and who is approved by the board to assist in the provision
16 of physical therapy under the supervision of a physical therapist who shall be
17 responsible for the extent, kind, and quality of the services provided by the physical
18 therapist assistant.

19 **FIRST CAUSE FOR DISCIPLINE**
20 **(Practicing Outside the Scope/Fraudulent or Dishonest Act)**
21 **[Bus & Prof Code §§ 2630, 2660(l)]**

22 7. On January 9, 2002, investigators operating on behalf of the Board performed
23 an audit of respondent's patient records at his place of business, Myo-Dynamics Body Work Center
24 in Modesto, California.

25 8. Approximately 25-30 patient charts were reviewed.

26 9. Many patients were referred by physicians to respondent for "physical
27 therapy."

28 10. Many patient charts indicate respondent is treating his patients with physical
therapy treatment modalities, including exercise, soft tissue mobilization, and placing patients in

home exercise programs.

11. Respondent represents his status as a physical therapist assistant to gain referrals from physicians.

12. Respondent does not work under the supervision of a licensed physical therapist, nor does he have an employee relationship for supervision with any licensed physical therapist.

13. Respondent conducts “patient evaluations” for physical therapy which is outside the scope of a physical therapist assistant.

14. Respondent uses physician billing codes and represents himself to insurance companies for billing purposes as a physical therapist assistant.

15. Respondent’s conduct as set forth above constitutes the unlawful practice of physical therapy in violation of section 2630 of the Code and is a fraudulent or dishonest act in violation of section 2660(l) of the Code.

SECOND CAUSE FOR DISCIPLINE
(Gross Negligence)
[Bus. & Prof. Code § 2660]

16. Complainant realleges paragraphs 7 through 14 above as if fully set forth at this point.

(1) Respondent’s practice of physical therapy without the supervision of a licensed physical therapist is a violation of section 2660 of the Code which constitutes gross negligence.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

1. Issue a Public Reprimand pursuant to Business and Professions Code section 495 against Physical Therapy Assistant License Number AT-5774, issued to Kevin Rae Wallace;

2. Ordering Kevin Rae Wallace to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

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3. Taking such other and further action as deemed necessary and proper.

DATED: February 23, 2004.

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant